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INFO RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE
RUCNCIS/CIS COLLECTIVE
RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHAK/AMEMBASSY ANKARA 4775
RUEHBJ/AMEMBASSY BEIJING 2566
RUEHKO/AMEMBASSY TOKYO 2431
RUEHIT/AMCONSUL ISTANBUL 3021
RUCPDOG/DEPT OF COMMERCE WASHDC
RHEHNSC/NSC WASHDC
RHMFISS/CDR USCENTCOM MACDILL AFB FL
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHDC
RUEKJCS/JOINT STAFF WASHDC
RUEKJCS/SECDEF WASHINGTON DC
RUEHVEN/USMISSION USOSCE 3293

C O N F I D E N T I A L SECTION 01 OF 02 ASHGABAT 000161

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SUBJECT: WHAT'S HOLDING UP TURKMENISTAN'S ACCESSION TO THE
NY CONVENTION FOR INTERNATIONAL ARBITRATION

Classified By: Charge Richard Miles, reasons 1.4 (B) and (D).

11. (C) SUMMARY: One faction in Turkmenistan's government, which is afraid of losing control, is the stumbling block preventing Turkmenistan from acceding to the New York Convention on International Arbitration. Another faction understands the value of joining international conventions to improve the business climate. President Berdimuhamedov is between these two groups, unsure which decision to take, and for the moment is choosing to err on the side of caution by not signing the accession document. Various cases, including ones involving the Ministry of Agriculture and pending contracts with the Ministry of Oil and Gas, have raised the profile of international arbitration. This may explain the visit of a German law professor and consultant to Turkmenistan the week of February 2 -- at the government's invitation. The lack of international arbitration mechanisms in Turkmenistan does not concern China, however, because that country will be happy to accept other contracts when Turkmenistan misses oil and gas commitments, such as for purchases of cotton, buses, iron ore, scrap metal, and locomotives, as well as construction projects and onshore exploration contracts. The oil and gas sector and especially, the power ministries, wield enormous power in Turkmenistan's government and ironically are in fact hindering Turkmenistan's development. END SUMMARY.

ONE GOVERNMENT FACTION OPPOSES ASCENSION TO NY CONVENTION

12. (C) EU-Tacis Turkmenistan Advisor, Michael Wilson (please protect), told Economic Officer on January 30 that the government has not acceded to the New York Convention on International Arbitration because one faction of officials opposes it. This faction, which includes officials from Turkmenistan's Public Prosecutors Office, various security services, and some state-owned enterprises, fears the loss of control and power over Turkmenistan's business concerns that accession to this convention implies. Deputy Chairman for Foreign Affairs, Rashid Meredov, former Deputy Chairman for Economy and Finance, Hojamyrat Geldimyradov, Central Bank Chairman, Guvanchmyrat Goeklenov, and Institute of Democracy and Human Rights Chairman, Shirin Akhmedova, sit on the other side of the fence because they understand the importance of Turkmenistan joining international conventions in order to

raise the country's profile and to improve the business climate. Wilson added that President Berdimuhamedov is between these two groups, unsure which decision to take, and for the moment is choosing to err on the side of caution by not signing the accession document.

OIL AND GAS CONTRACTS RAISE PROFILE OF THE CONVENTION

¶3. (C) Wilson said that the Ministry of Agriculture has several international arbitration cases in progress, and that foreign arbitration, in general, is becoming more of an issue, because of oil and gas contracts that are on the table. (NOTE: This may be why Dr. Kneiper, a German law professor and consultant on foreign arbitration issues, is visiting Turkmenistan at the invitation of the government during the week of February 2. END NOTE.) According to Wilson, officials in the oil and gas sector and the President continue to believe that Turkmenistan can extract gas on its own and without involving the foreign major petrochemical companies, which makes accession to the Convention unnecessary. Wilson said that Deputy Chairman for Oil and Gas Tachberdi Tagiyev is "in the middle (on the issue), and will go with whatever is decided."

CHINA HAS OTHER WAYS TO ADDRESS MISSED COMMITMENTS

¶4. (C) Wilson said that Tagiyev also knows that he will be the "fall guy" when Turkmenistan doesn't meet its commitments to the Chinese (which appears likely). According to Wilson, China will accept contracts for purchases of cotton, buses,

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iron ore, scrap metal, and locomotives, as well as construction projects and onshore exploration contracts, in lieu of pursuing arbitration. Turkey is also concerned due to the many construction projects Turkish companies have in Turkmenistan. Wilson added that Tagiyev will not publicly acknowledge that Turkmenistan needs the technology of a foreign major company to develop the country's petrochemical reserves to meet obligations to Russia and China. Wilson believes that all of Turkmenistan's leaders are afraid to tell Berdimuhamedov the truth.

¶5. (C) COMMENT: The international community, including Wilson, had thought that Turkmenistan would accede to the New York Convention on International Arbitration sometime in 2008. This situation illustrates the influence that the oil and gas sector and especially the power ministries wield in the government. Ironically, these organizations are in fact hindering Turkmenistan's development. END COMMENT.
MILES